

KENTUCKY EDITORIALIZES ON CONSTABLES

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General Assembly needs to eliminate county constables

The Kentucky General Assembly needs to act quickly to solve the problem of constables. They're not trained, not qualified and they're not needed.

A report released last week by the state Justice and Public Safety Cabinet found that the 509 constables in Kentucky do little police work and are potentially a hazard for the people of Kentucky because few have law enforcement training.

"It's time now to finally take a look at this office and not continue to push the issue down the road," Justice Secretary J. Michael Brown said last week in issuing the report.

People in Louisville should be well aware of the problems associated with the antiquated post because of the sad case of David Whitlock, a former Jefferson County constable who shot an unarmed woman suspected of shoplifting from a Walmart a year ago.

Mr. Whitlock, who had pleaded guilty to felonies for theft several years before he was elected as a constable, was kicked out of a law enforcement training program when he failed the portion on firearms training.

Ultimately, he agreed to a plea deal that, thank goodness, required him to resign his elected position.

The problems with the office are many.

Beyond the fact that no training is required, there is no state required salary and most counties pay very little, if anything.

We're reminded of the old saw, "You get what you pay for."

The office often draws people who simply want power or the ability to cloak themselves in the mantle of authority when looking for jobs as security guards. And in Mr. Whitlock's case, convicted felons.

Who else would want such a job?

There's also the liability issue. Untrained law enforcement officers put the government at risk of huge lawsuits when people are arrested without warrant or shot by a rogue wannabe with a badge.

There's a simple remedy here. Because the position of constable is established in the Kentucky Constitution, it requires legislative action to get the matter on the ballot so voters can make the change.

But when state Sen. Julie Denton and state Rep. Joni Jenkins tried to get the legislature to pass a such constitutional amendment eliminating the position earlier this year, they were told it was nothing more than a squabble between sheriffs and constables and that they needed to let the two sides work out a deal.

What? That's letting foxes armed with .45 calibre Glocks in the hen house.

The General Assembly needs to revisit the issue and pass a truly necessary constitutional amendment — unlike the one voters backed last week that vanquished a non-existent threat to their right to hunt and fish.

And while they're at it, they can also do away with the jobs of county commissioners, magistrates and judge-executives where there are merged governments like in Louisville and Lexington.

You want smaller government? Here's your chance to eliminate more than 500 government jobs and make your constituents safer.

Lexington Herald-Leader

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Legislature should abolish constable job

Report rightly says position unneeded

Thanks to Justice Secretary J. Michael Brown for taking a close look at the role of constables in Kentucky's counties and reporting that, frankly, they are more trouble (or at least potential liability) than they're worth.

Brown appointed a working group that researched the legal and other history of constables and surveyed county judge-executives, county attorneys, chiefs of police, sheriffs, the state police and the constables themselves.

The conclusion was that "the office of constable serves no value to Kentucky law enforcement, exposes the citizens of Kentucky to unnecessary risk of injury or violation of rights."

Brown's report said that at a minimum constables, who have no required qualifications or training, should be stripped of their law enforcement authority. Although they aren't paid by counties, deriving their income instead from fees for serving warrants, they are still authorized to carry firearms and arrest people, both of which create liability for counties. This is a very real risk, particularly given recent history in which constables have been prosecuted for crimes ranging from selling pain pills to promoting prostitution.

It also dilutes the authority and respect for officers who are hired on the basis of ability and trained to do their work professionally.

Most constables, of course, don't do bad things. But that's not a high enough bar for maintaining these positions, which the report called "a tenuous anachronism.

"The office of constable is established in the Kentucky Constitution but the policing authority was granted by the legislature, which can and should remove that authority. The General Assembly should also move forward to place a constitutional amendment on the ballot to abolish the position.

But it shouldn't stop there. Constable, of course, is not the only anachronistic county position in our constitution. In counties, like Fayette, where the county and city governments are merged, the positions of magistrate, commissioner and judge-executive have no real reason for existing. Indeed, Jon Larson successfully sought the judge-executive position in Fayette County in 2010 on the promise that he would work to abolish it. Sadly, he hasn't yet succeeded.

The legislature could, and should, give Kentucky voters the chance to vote on a constitutional amendment to abolish these holdovers from the past that no longer serve the public and have the potential to cause harm.

Daily Independent (Ashland, KY)

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Of little value

Office of constable has outlived whatever usefulness it once had

ASHLAND — Who is your constable? Don't know? Don't feel too badly. Even some of the most conscientious voters cannot tell you who their elected constable is and have no idea what he or she does.

For the most part, that's no big deal because most constables elected in Kentucky do little or nothing as a result of their office — and that's just the way most Kentuckians want it. If there was ever a need for elected constables in Kentucky, it disappeared decades ago.

Nevertheless, constables continue to be elected in all 120 counties, and while most of them have little or no law enforcement training or experience, they have the same rights and powers as the highest ranking and best trained police officers in Kentucky. But instead of helping improve law enforcement in Kentucky by increasing the number of officers patrolling highways and investigating crimes, many constables actually hinder law enforcement by performing law enforcement duties without proper training. Instead of helping professional police officers and prosecutors build cases against criminals, untrained constables can actually taint evidence, violate the rights of suspects and bungle cases so badly that successful prosecution becomes more difficult if not impossible.

While some constables actually think they help professional police officers do their jobs and bring criminals to justice, the Kentucky Law Enforcement Council (KLEC), a statewide organization made up of sheriffs, police chiefs and state police, disagrees. A new year-long study released by the council calls for a constitutional amendment to eliminate the office of constable. Short of elimination of the office, the study asks for legislators to strip away the law enforcement duties of constables.

The KLEC study found that the more than 500 elected constables in the state perform one-fourth of 1 percent of all law-enforcement work in the state. Constables are not paid and have no law enforcement training.

“They are unregulated and have no standards,” said Commissioner John Bizzack, who heads the Department of Criminal Justice Training.

The recommendations come a year after a constable in Louisville, David Whitlock, shot at a woman across a Wal-Mart parking lot. Whitlock resigned in October as part of a plea deal that kept him out of jail.

Justice Cabinet Secretary J. Michael Brown, who presented the report, said the recommendations are not aimed at any individual and that there have been issues with constables from around Kentucky. The report cites incidents, including arrests and confrontations with citizens, involving constables in Lexington and Louisville as well as Clark, Johnson, Knox, LaRue and Muhlenberg counties. A constable in neighboring Carter County was killed while trying to assist professional law enforcement officers.

The actions of the relatively few constables who work part-time, carry a badge and use law-enforcement powers, reflect badly on professional officers. “The integrity ... of all of them is diminished by the office of constable as it exists now,” Brown said.

Not surprisingly, the KLEC report was quickly denounced by the Kentucky Constables Association. On its Facebook page, the organization said constables work for free to aid local authorities.

“It’s time for our government to stop wasting all our tax dollars to dream up all this non-sense,” said the posting that including the misspelling of nonsense. “Government just can’t seem to stand it because we work for the people that elects us and not for the government themselves.”

Kentucky established the office in the state’s 1850 Constitution, but constables have no clearly defined authority in the document. Lawmakers granted it law-enforcement powers in state law. Getting rid of the office would require a constitutional amendment passed by the General Assembly and approved by voters. Law-enforcement powers could be stripped away by law.

Eliminating the law enforcement powers of constable is the first step the Kentucky General Assembly should take. Beyond that, legislators should give voters the opportunity to eliminate the office by placing a constitutional amendment on the ballot.

Fortunately, most elected constables in the state do little or nothing for the pay they don't receive. They are not the problem. The problem is those few constables who attempt to "play cop" without training. They need to disappear.

State Journal (Frankfort)

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Constables' time past

We editorialized nine months ago in favor of abolishing the constitutional office of constable. Unfortunately, the idea went nowhere. A House committee voted for the bill calling a referendum on the issue but a Senate panel preferred to let fiscal courts decide what constables should and should not do. The whole proposition eventually fizzled.

Now, less than two months from the start of another legislative session, there's renewed interest in reining in a position that seems less and less relevant in the 21st century. The Department of Criminal Justice Training issued a report last week saying the commonwealth's constables – more than 500 of them altogether – handle less than 1 percent of the state's law-enforcement work and do so without training requirements. Some have themselves gotten in trouble with the law.

The officeholders, who trace their roots to medieval England, take pride in their elected status and vociferously contest challenges to it.

State Journal reporter Kevin Wheatley contacted two of Franklin County's constables, who discussed some of the ways they deliver services at little or no cost to the public. Mark Turner said he handles 95 percent of the evictions in this county and serves papers for banks and lawyers. He said he even lends his personal truck to the evicted when they need help loading and storing furniture. Richard Sandifer, besides directing traffic at Second Street School, has pitched in to assist law enforcement officers at wrecks and crime scenes.

Others have previously served in a similar capacity. Mike Tracy, the 6th District constable who like Sandifer did traffic duty at Second Street School, won the respect of children and parents, who mourned his passing two years ago. Decades earlier, "Maggie" Rogers became a community icon, trudging around town on foot to serve legal papers when he wasn't carrying out groceries for customers at the old A&P on Second Street.

While these men warmed our hearts with their humble dedication, others made news for less admirable attributes. A former Louisville constable took a plea deal to stay out of jail last year after wounding a woman suspected of shoplifting at Walmart. That incident led Sen. Julie Denton, R-Louisville, to introduce her proposal to abolish the office.

The problem is that voters have no reliable way of knowing which they're going to get – a self-effacing public servant or a brazen egotist who just wants to strut around feeling important. In either case, no particular training is required. Frankfort Police Chief Walter Wilhoite finds that some constables want to act like professional officers without actually learning the ropes. Franklin County Sheriff Pat Melton, noting that his deputies attend the same academy as city police, said the lack of requirements for constables is his big concern.

In fairness, trained police officers, sheriffs and deputies are also capable of dumb behavior at times. The infamous Sheriff of Nottingham, remember, was a political hack who made life so miserable for English peasants that Robin Hood had to stand up for their rights by robbing the rich in Sherwood Forest.

What ails the constabulary could possibly be remedied with tighter regulations. The better solution, in our opinion, is simply to abolish this anachronism once and for all. Perhaps professional police organizations can find some alternative outlet for people who feel driven to volunteer their services in the interest of public safety – without creating problems for real law enforcement.

Messenger-Inquirer (Owensboro)

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Drop Constables from Kentucky Constitution

For years, there has been a consistent call to remove the elected position of constable as one of Kentucky's constitutional offices.

The General Assembly has shown stubbornness with this issue, but the recent release of a six-month study by the state Justice and Public Safety Cabinet should have gotten Frankfort's attention.

The report found the majority of law enforcers — police chiefs, county sheriffs, state troopers, county judge-executives and county attorneys — in this state believe constables are no longer needed to preserve law and order.

The survey showed "constables perform 0.02 percent of the recorded law enforcement work" in the state.

It's also telling when 80 percent of police chiefs polled — and 89 percent of county sheriffs — said constables are not essential to law enforcement. Who else would know better than those who protect and serve the public on a daily basis?

But there's more reason to abolish the office than just because of the lack of duties constables perform.

Constables, who have the power to make arrests without any training or police experience, have a history of abusing the authority given to them in 1850 — the year the position was established as a constitutional office.

In 1999, an Ohio County constable — David Lee Duncan — had his wife and friends patrol him around after he was charged with a DUI.

In 2000, Daviess County Constable Phillip D. Newsock took the Alford plea after he was charged with trying to prevent an arrest while acting as a constable and assaulted a police officer at the same time.

And in September, Graves County Constable Howard Burnett was charged with four counts of wanton endangerment after making a traffic stop.

In Kentucky, there are 454 constables holding office. And according to the The Kentucky Constable Association, only a third of them attend the nonmandatory monthly training sessions and less than half of them have ever had any police training.

Constables are placing themselves and the public at risk when they have the power to make arrests but do not have proper training to back it up.

Unlike other high-profile elections, constable races often go unnoticed and voters are left in the dark on who they're selecting to serve them.

So why does the state keep the outdated office around if constables pose a liability and serve little purpose when it comes to law enforcement?

It's a question the General Assembly should finally answer when it reconvenes in January.